



Andrew Geronimo <acg33@case.edu>

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## Koger - Proposed Joint Witness and Exhibit List

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Mindy Worly <Mindy.Worly@ohioago.gov>

Tue, Sep 28, 2021 at 3:58 PM

To: Andrew Geronimo <acg33@case.edu>

Cc: Sara Coulter <sec142@case.edu>, Tony Shang <Tony.Shang@ohioago.gov>, Tracy Bradford

<Tracy.Bradford@ohioago.gov>, Thomas Madden <Thomas.Madden@ohioago.gov>, Gregory Glasgow

<JGregory.Glasgow@ohioago.gov>, Ginger Pinkerton Law Clinic <gpinkerton-lawclinic@case.edu>, Makela Hayford-Kramer Law Clinic <mhayford-lawclinic@case.edu>, Nathan Venesky-Kramer Law Clinic <nvenesky-lawclinic@case.edu>

I also object to the following exhibits and will not agree to stipulate to them in any way, shape, or form:

536-542

420

035

530-535

343-346

550-553

And whatever the reference is to a 7/22/16 Request for Religious Accommodation since it has no number.

Nowhere does the order even suggest that the parties should file a joint witness list, and Defendants have no intention of doing so.

I will send you my list of proposed exhibits shortly.

Best,

Mindy

**From:** Andrew Geronimo <acg33@case.edu>

**Sent:** Tuesday, September 28, 2021 3:35 PM

**To:** Mindy Worly <Mindy.Worly@OhioAGO.gov>

**Cc:** Sara Coulter <sec142@case.edu>; Tony Shang <Tony.Shang@OhioAGO.gov>; Tracy Bradford

<Tracy.Bradford@OhioAGO.gov>; Thomas Madden <Thomas.Madden@OhioAGO.gov>; Gregory Glasgow

<JGregory.Glasgow@OhioAGO.gov>; Ginger Pinkerton Law Clinic <gpinkerton-lawclinic@case.edu>; Makela Hayford-Kramer Law Clinic <mhayford-lawclinic@case.edu>; Nathan Venesky-Kramer Law Clinic <nvenesky-lawclinic@case.edu>

**Subject:** Re: Koger - Proposed Joint Witness and Exhibit List

Mindy,

I am concerned that your proposed course of action will not comply with the Court's order, which says:

Counsel shall file a joint notice on the docket specifically identifying any exhibit to which a party does not stipulate to joint use, authenticity, and/or admissibility by close of business Tuesday, September 28, 2021. If no such notice is filed, the Court will consider all exhibits unobjection to. The Court expects that counsel will coordinate regarding the planned use of exhibits well in advance of this cutoff.

Any exhibit that cannot be filed on the Court's electronic filing docket must arrive in chambers by the same cutoff.

I don't want to run into any more issues with Judge Pearson striking separate filings that were supposed to be jointly filed -- we can list everything separately if you prefer, but I need your help to comply with this order.

Thanks,  
Andy

On Tue, Sep 28, 2021 at 1:55 AM Mindy Worly <[Mindy.Worly@ohioago.gov](mailto:Mindy.Worly@ohioago.gov)> wrote:

Andy,

I am surprised you have listed ODRC's Formulary Protocol after alleging that I was somehow abusing my discovery obligations by sending it to you, even though I represented that I did not intend to use it at trial because it was only disclosed for purposes of settlement. I am also amazed that you are have listed the Kelly Riehl affidavit and the attachments thereto, since you argued that it should be disregarded and the Court obliged your request. But what really floors me is your attempt to resurrect your dead deadlock claims by including the force cut video and other grooming related material on your exhibit list. I guess we will see what the Court says about that when it rules on the motions in limine.

Meanwhile, since I am having trouble finding all of documents you list as proposed exhibits, I will need to send you a more inclusive list of those proposed exhibits with which I object sometime after the sun rises. But for now, the following is a partial list of those exhibits to which I object and for which I will not agree to stipulate in any way, shape or form:

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Force Cut Video

68-MED-10 Diet Formulary Protocol.

I will agree, however, to stipulate to the following:

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503.

Anything not listed only means I have not yet reviewed it, not that I have no objection to its use. I will get you a more compete list later in the day, along with a list of my exhibits. However, Doc. 77 says nothing about either a Joint Witness List or a Joint Exhibit list. Needless to say, we will each need to file our own.

Best,

Mindy

**From:** Andrew Geronimo <acg33@case.edu>  
**Sent:** Monday, September 27, 2021 11:23 PM  
**To:** Mindy Worly <Mindy.Worly@OhioAGO.gov>; Sara Coulter <sec142@case.edu>

**Subject:** Re: Koger - Proposed Joint Witness and Exhibit List

Mindy,

I'm sorry I couldn't answer your call just now -- please check the Amended Order, Doc #77. We have to file these by tomorrow close of business. Please send me what you have when you can.

Andy

On Mon, Sep 27, 2021 at 11:12 PM Mindy Worly <[Mindy.Worly@ohioago.gov](mailto:Mindy.Worly@ohioago.gov)> wrote:

I do not believe that the Court's order requires a joint list whether for witnesses or for exhibits. ECF No. 61, at 698.

**From:** Andrew Geronimo <[acg33@case.edu](mailto:acg33@case.edu)>  
**Sent:** Monday, September 27, 2021 11:05 PM  
**To:** Mindy Worly <[Mindy.Worly@OhioAGO.gov](mailto:Mindy.Worly@OhioAGO.gov)>; Tracy Bradford <[Tracy.Bradford@OhioAGO.gov](mailto:Tracy.Bradford@OhioAGO.gov)>; Tony Shang <[Tony.Shang@OhioAGO.gov](mailto:Tony.Shang@OhioAGO.gov)>  
**Cc:** Sara Coulter <[sec142@case.edu](mailto:sec142@case.edu)>; Ginger Pinkerton Law Clinic <[gpinkerton-lawclinic@case.edu](mailto:gpinkerton-lawclinic@case.edu)>; Makela Hayford-Kramer Law Clinic <[mhayford-lawclinic@case.edu](mailto:mhayford-lawclinic@case.edu)>; Nathan Venesky-Kramer Law Clinic <[nvenesky-lawclinic@case.edu](mailto:nvenesky-lawclinic@case.edu)>  
**Subject:** Koger - Proposed Joint Witness and Exhibit List

Hi Mindy,

I've taken a first go at the Joint Witness and Exhibit List, with the caveat that we're still working on it so it may change somewhat. It seems from your filings that there are a few witnesses we could stipulate to, but because of the outstanding Motions in Limine, I included all of our Exhibits as Plaintiff's Exhibits, and you can review for the purposes of complying with the Court's order that we stipulate to use, authenticity and admissibility wherever possible.

If you'd like to send me your additions while you review this, I can start reviewing your stuff so that we can confer if necessary.

Thanks,

Andy

--

Andrew Geronimo

*Director, First Amendment Clinic*

*Lecturer in Law*

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Cleveland, Ohio 44106

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